

City of Lowell - Law Department

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July 31, 2013

George LeVines
MuckRock News
DEPT MR 5835
PO Box 55819
Boston, MA 02205-5819

RE: Public Records Request – Controlled Substance Seizure Reports

Dear Mr. LeVines:

I am following up on MuckRock News' recent request, directed to the Lowell Police Department, for "[a]ll controlled substance seizure reports from January 1, 2006 to the date that this request is processed." You classified this request under the Commonwealth of Massachusetts' public records statute, MGL c. 66, § 10 ("Public Records Law"), and you specifically noted in your request that "[t]he documents [you are] requesting are referred" to under Series 16.014 of the Commonwealth of Massachusetts Municipal Records Retention Manual ("Retention Manual").

Series 16.014 of the Retention Manual refers to controlled substance seizure reports, and cites Massachusetts General Laws Chapter 94C, Section 47A, as the statutory authority for this particular reporting. That statute notes in relevant part as follows:

The department of state police shall keep a record of the place where such controlled substances or narcotic drugs were seized, of the kinds and quantities of drugs received, by whose order the controlled substance or narcotic drugs were received, by whom the controlled substance or narcotic drugs were delivered and received, the date and manner of destruction or disposition of such controlled substances or narcotic drugs, and a report under oath of such destruction or disposition shall be made to the court, which record shall be open to inspection by attorneys of record in the case and by all federal and state officers charged with enforcement of federal and state narcotic laws.

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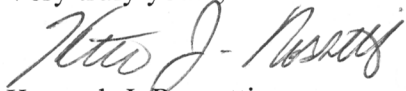
MGL c. 94C, § 47A (emphasis supplied). This statute accordingly provides for the State Police to prepare the records to which your request refers.

As the Public Records Law requires a requestor of records to direct a demand to the custodian of the requested documentation, and as the statute creating the obligation to prepare controlled substance seizure reports requires the State Police (not the Lowell Police Department, or any other department of the City of Lowell) to draft such records, you have erroneously directed your request for records to the Lowell Police Department. Accordingly, the Lowell Police Department has no documentation responsive to your request.

If you wish to contest or appeal this decision on your public records request, you may petition the supervisor of records for a determination of the propriety of the response by directing your petition to the following address: Secretary of the Commonwealth, Public Records Division, McCormack Building, Room 1719, One Ashburton Place, Boston, MA 02108.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Kenneth J. Rossetti".

Kenneth J. Rossetti
Assistant City Solicitor

KJR:s